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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

VERBATIM RECORD OF THE 387th MEETING

Held at Headquarters, New York,
on Tuesday, 15 June 1993, at 10.30 a.m.

Chairman: Mr. HOHENFELLNER (Austria)

- Report of the Legal Subcommittee on the work of its thirty-second session

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The meeting was called to order at 11.45 a.m.

REPORT OF THE LEGAL SUBCOMMITTEE ON THE WORK OF ITS THIRTY-SECOND SESSION (A/AC.105/544)

Mr. KYRYCHENKO (Ukraine) (interpretation from Russian): In our brief intervention today, the delegation of Ukraine would like to address just a few problems.

First, we share the concern expressed during this session about the continuing pollution of outer space. The problem of space debris is indeed one of the important aspects of the exploration and peaceful uses of outer space, and we must pay it special attention. However, in our view, this problem is not irremediable; provided States are responsible in their exploration and use of space, a significant reduction in space pollution can be achieved. In this connection, spacefaring States must take all the measures necessary to avoid pollution, bearing in mind the duty today's generation has to leave outer space unsullied for future generations.

Second, we should like to speak briefly about some specific cooperative programmes in the field of outer space that Ukraine might propose and which we mentioned in our earlier intervention. First of all, we should like to point out the huge potential for scientific cooperation of our unique space centre in Yevpatoriya, and Ukraine is prepared, if other States show interest, to consider the question of establishing an international space research centre on its base there.

Another important scientific and research establishment in Ukraine is the Marine Hydrophysical Institute in Sebastopol, which could also become an international centre for studying the ocean from space. The Institute has a unique platform for scientific research out at sea.

We should also mention the Paton Institute of Electric Welding in Kiev, which has achieved great things in the field of space welding.

(Mr. Kyrychenko, Ukraine)

Along with great capability in the area of scientific research into outer space, Ukraine also has considerable potential in management personnel training. A number of institutes of tertiary education in Ukraine specialize in training specialists for the aerospace sector, and there are training centres there which could host students from other countries as well, especially from countries that are developing their own space activities.

Finally, I should like to take this opportunity to confirm Ukraine's readiness to hold, under United Nations auspices, a training seminar for foreign specialists on the problems of remote Earth sensing which would be intended to solve national resource and economic problems. Furthermore, we are prepared to accept specialists in space research from the developing countries on trainee fellowships.

Mr. HALFF (Netherlands): I should like to make some brief remarks with regard to three subjects addressed in the last session of the Legal Subcommittee.

First of all, with regard to the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, my delegation would like to see the Principles agreed upon last year applied as of now. The most important thing now is to make the Principles do their work in practice. What use are principles if we do not act in accordance with them? As for the envisaged revision, I would not object to it, provided the need for such a revision has been established and only if the technical developments in the field of nuclear propulsion are causing the principles no longer to correspond with the use in practice of nuclear power sources. In other words, I think we should strive for a gradual adaptation of the Principles to the gradual development of technology.

(Mr. Halff, Netherlands)

With regard to the definition and delimitation of outer space, my delegation can agree to the proposed questionnaire. The answers we hope to receive in response to such a questionnaire could be of help in determining whether there is a need for a specific legal regime for aerospace objects and, if so, what direction our thinking should take.

The third point I should like to touch upon is the question of equitable access to and use of the geostationary orbit. This delegation believes that the International Telecommunication Union (ITU) is indeed quite successful in dealing with the various aspects of the rationale of equitable use of the geostationary orbit. We would therefore prefer to leave it to the ITU to develop new rules, should a need for such rules arise.

Mr. CHANDRASEKHAR (India): Our delegation considers that progressive development of space law assumes great importance not only because of the need for maintaining the relevance of the already developed international legal framework in this field, but also for smoothly guiding the new developments in space technology and its applications and ensuring that these result in benefits to all States. International space law developed to date follows a unique approach in that, instead of playing a merely regulatory role, it is intended to serve as a motivational force for strengthening international cooperation, vigorously pursuing further developments in the field of outer space and spreading the benefits of those developments. The progressive development of international space law in tune with the above ethos is a complex task; hence, we have to consolidate each small step of progress so that we can go further.

The agreement governing the Principles for the safe use of nuclear power sources in outer space is one such step which came out of the Committee's long

(Mr. Chandrasekhar, India)

and continued pursuit of consensus. Our delegation considers it a matter of priority, in order to maintain the confidence of the international community and mitigate its concerns, to take up the initiation of all necessary steps to see them put in practice. Our delegation carefully followed the argument advanced by some delegations for early revision and review. Indeed, the need for such review is provided for in the adopted Principles themselves. We are of the view that the aim of review and revision should be to bring the safety guidelines and criteria in line with the recent evolution of International Commission on Radiological Protection recommendations which were used as a basis for our work, and also that reviews should take into account the essential technological advances made from time to time. However, revision or review should tend to facilitate greater cohesion and easier practice rather than undermine progress already achieved. On this basis, we welcome the suggestion made in the Legal Subcommittee that it should seek input from the Scientific and Technical Subcommittee. We also support the idea that matters related to further improvements be discussed through the working group on the subject, without weakening efforts to ensure observance of principles already agreed.

Turning now to the definition and delimitation of outer space and the character and utilization of the geostationary orbit, we note that further useful discussions took place during the thirty-second session of the Legal Subcommittee. We also note that further useful exchanges of ideas took place based on the concept of aerospace systems.

(Mr. Chandrasekhar, India)

However, we observe that there is still a need for greater debate and in-depth study to deal with the concept of evolving a legal regime for aerospace objects and to establish a basic approach taking into account the already developed legal frameworks for outer space. Our delegation supports further discussions in the Legal Subcommittee on these matters.

On the matters related to the character and utilization of the GSO, our delegation welcomes the further discussion on the working paper submitted by the delegation of Colombia, which contains many useful concepts. We also urge that our efforts should continue to synthesize the interests and the needs of various States and further develop the legal basis in complement to the role of the International Telecommunication Union (ITU).

Let me now briefly turn to the other important agenda item which we deal with in the Legal Subcommittee, namely, the question of outer space benefits. The outer space Treaty of 1967 envisaged an indispensable role for international cooperation in the exploration and peaceful uses of outer space. Even with the progress of over three decades in outer space activities, the benefits of outer space have not been fully achieved, in terms of their being easily accessible to meet the needs and priorities of many countries, particularly developing countries.

It was to redress this inequity on the basis of mutually beneficial and relevant cooperation that we undertook deliberation on agenda item 5 in the Legal Subcommittee. Many principles that we are trying to elaborate as the elements of such cooperation are based on the consensus developed during the UNISPACE 82 conference. They embody the essential elements of recognizing the needs and priorities of the developing States, the right of timely and non-discriminatory access, cooperation for building indigenous capabilities,

(Mr. Chandrasekhar, India)

affording flexibility for development strategies, regard for the environment and the commitment to peaceful purposes.

The working paper submitted by a group of 10 States has been a good basis to reflect several of these essential elements of promoting international cooperation, with due respect for the principle that the exploration and use of outer space should be for the benefit and in the interests of all States, taking into particular account the needs of developing countries. Our delegation reiterates the urgency and importance of further deliberations and arriving at conclusions by a further build-up on the basis developed so far.

Mr. REY (Colombia) (interpretation from Spanish): I wish to refer to the items dealt with by the Legal Subcommittee at its session in April.

I begin with the use of nuclear power sources in outer space. My delegation has welcomed the fact that in the Subcommittee and later by a General Assembly resolution we have adopted Principles governing this subject. We also welcome the outlines for constant review, within the context of the continuing evolution of space law, because they enrich all the norms of law by which the matter should be regulated.

Clearly, this is necessary in view of technological progress, and we are glad that the Legal Subcommittee has made provision for the possibility of a joint study with the Scientific and Technical Subcommittee of all these items in order to update and amend the Principles when appropriate, without that implying any criticism of the Principles that have been adopted, Principles that are now governing the subject after 12 years of serious discussion and intensive negotiations.

Secondly, I wish to refer to the question of the definition and delimitation of outer space and the character and utilisation of the

(Mr. Rey, Colombia)

geostationary orbit. As is well known, the delimitation of outer space has been dealt with in a number of different ways. It was first discussed on the basis of whether it was necessary for there to be a definition and delimitation of outer space - in other words, the scope of space law. In the ensuing analysis of the possibility of defining and delimiting outer space many theories and views were discussed, but without agreement in the Legal Subcommittee. That finally led to a different approach, based on a proposal by the Russian Federation to consider basically a legal regime governing space objects.

My delegation has already had an opportunity to speak on this subject. We have accepted this new approach to studying the problem of the definition and delimitation of outer space. But we believe that the positions held earlier on the search for a delimitation based on agreement between countries and the famous "100-kilometre" theory still have some validity. We feel they are the most logical, politically and legally, but naturally we would not oppose approaching the problem within the new parameters suggested by the document of the Russian Federation.

We urge States to respond to the questionnaire. Their replies could form the basis of an in-depth study and make agreement on the subject possible. There could then be embodied in the norms of law a definitive delimitation of outer space and a legal regime governing space objects. What is needed is participation and cooperation by States in preparing formulas for the eventual adoption of conclusions on this subject.

With regard to the question of the geostationary orbit, my delegation, as is reported in document A/AC.105/544, officially introduced a document which seeks to contribute to solving the problem of access to the orbit when access

(Mr. Rey, Colombia)

gives rise to complications between two or more States. I should like our approach to be taken into account, because sooner or later we may run into conflict over positions that some States, including my own, may have long held about how the question of the geostationary orbit is dealt with. Here I stress that the draft that we submitted to the Committee for consideration seeks to solve what is a real problem concerning access to the geostationary orbit, despite the rules of the International Telecommunication Union (ITU) on the subject.

(Mr. Rey, Colombia)

Hence, I believe that the document is directed towards the legal development of a set of principles already embodied in the ITU rules, with a view to solving the specific problem of access to the orbit.

Before elaborating on the thrust of Colombia's paper, I should like the Committee to give some thought to the way in which the Legal Subcommittee should approach the study of this question, because unfortunately - and I say this on the basis of my own participation in the Subcommittee's work - the Subcommittee is often apt to lose sight of legal issues and to be sidetracked by political discussions. My delegation understands that reality cannot be divorced from politics. But political considerations can shape legislation. Once this has occurred, laws and regulations acquire a dynamism of their own, creating institutionalized procedures for their implementation.

It is common knowledge that there exist ITU regulations governing the geostationary orbit. Indeed, we have been discussing that orbit and access to it ever since 1973 in Malaga and Torremolinos, where this matter was first taken up. Those ITU regulations have been reflected in all relevant treaties, including the recent revision of the Nice agreement at last year's meeting of plenipotentiaries, in Geneva.

My delegation has never objected to our legal work on the geostationary orbit being carried out in accordance with the ITU rules. On the contrary, we use those rules as our basis; therefore they should be our starting-point in the development of law. Then, if legal principles such as those on equitable access already exist, we must determine how they are actually being applied so as to solve any problems arising from their unlawful application.

My delegation has proposed this document in the conviction that existing legal norms - specifically those governing ITU treaties - fail to ensure

(Mr. Rey, Colombia)

equitable access to the orbit. We know this from an analysis of the convincing research done on this subject. Thus it is time that those of us who are trying to achieve progress in evolving new space law came to grips with reality: current regulations are not being applied uniformly; their very essence is being flouted. That is why we need to clarify, explain and interpret those regulations, and we must do so on the basis of current technology and in keeping with basic principles.

That is the task of the Legal Subcommittee. The Legal Subcommittee must make and re-make the law, irrespective of political correctness. Current regulations can readily be expanded, interpreted and applied. I believe that Colombia's paper focuses on this point; it tries to reinforce existing rules that are being applied in a manner inconsistent with their original intent. My delegation will be a willing participant in all discussions of this issue, so long as they take place within the appropriate legal framework.

My delegation trusts that the new approach advocated in our proposal will overcome any prejudices that might exist in this regard. We are not seeking special legal regulations; we are simply trying to develop the existing ones so that the rights of developing countries are taken into account in such a manner that all countries have equal access to the orbit.

That is our approach. In this way, I believe that my delegation can make a contribution to the progressive development of space law. That is the sense of the document we have submitted. We hope that it will be considered and viewed with all due open-mindedness and on the basis of the legal attention it might merit.

Mr. ERDENECHULUUN (Mongolia): At the outset of my statement, which will focus primarily on agenda items 5, 6 and 7, dealing respectively with the reports of the two Subcommittees and the implementation of the United Nations Space Applications Programme, I wish to express my delegation's deep satisfaction at seeing you, Mr. Chairman, again presiding over the Committee. We are confident that your well-known diplomatic abilities and expertise in the matters before the Committee will guide our work to a successful conclusion.

Permit me to extend our felicitations to Mr. Jasentuliyana and the able staff of the Office for Outer Space Affairs for their commendable work during the past year. We are particularly grateful for the excellent background documentation prepared by the Office for this session.

The informative statement that you delivered at the opening of the session, Sir, highlighted the major achievements made in the field of the peaceful uses of outer space since the last session of the Committee. My delegation fully shares your assessment that the intervening period was characterized by a growing recognition on the part of States of the valuable contribution that space activities can make in their development endeavours. The significant improvement in the overall political climate in the world facilitated this welcome reorientation. The commemoration of the International Space Year was important in terms of giving further stimulus to the international cooperative efforts and highlighting the international and national space programmes.

It is important for the international community to capitalize on this opportunity by promoting broader cooperation among the States in the field of the peaceful uses of outer space and providing wider access to space technology for all countries. The large gap between the needs of the

(Mr. Erdenechuluun, Mongolia)

developing countries and their space capabilities remains unbridged. The possibilities of cooperation between developed space countries and developing ones are often left unrealized because of their unaffordable financial terms. In this respect we share the concern already expressed here by some developing countries over the high rates for remote-sensing data. While recognizing the investments that the developed countries make in acquiring remote-sensing data and acknowledging the comparative advantages of the commercial approach for both recipients and suppliers of such data, we would add our voice to the requests to consider ways to grant the developing countries access to remote-sensing data at reasonable terms duly taking into account their economic difficulties, as well as the importance of such data for their social and economic development.

(Mr. Erdenechuluun, Mongolia)

We also note with satisfaction the signs of growing regional cooperation in the peaceful uses of outer space. Here we refer in particular to the proposal to establish an Asia-Pacific satellite communication conference, as suggested at the United Nations Workshop on Space Communications for Development held last November in Seoul, Republic of Korea. Mongolia supported the proposal and looks forward to its speedy implementation, which would promote cooperation in space communications to the benefit of the social, cultural and economic development of the nations in the region.

Another encouraging development in the regional context took place last May in Beijing, People's Republic of China, with the session of the coordinating committee for Asia-Pacific cooperation on space technology and its application.

Mongolia supports the idea of establishing Regional Centres for Space Science and Technology Education. We consider the successful operation of these Centres as an important tool in developing the indigenous space capabilities of developing countries. My delegation is gratified to note the progress of the project, and expects some of the Centres to become operational as early as this year, as envisioned in the statement by Mr. Abiodun, the United Nations Expert on Space Applications.

I wish to take this opportunity to express my delegation's gratitude to Mr. Abiodun for his dedicated service and his work well done during the last year, as well as for his comprehensive introductory statement on the implementation of the United Nations Programme on Space Applications. My country continues to have considerable interest in the Programme, which provides valuable assistance to the developing countries in the form of training, fellowships and expertise.

(Mr. Erdenechuluun, Mongolia)

Mongolia views the work done by the Subcommittees at their latest sessions as useful and productive.

The Legal Subcommittee scored a major success at its 1992 session by agreeing on the Principles for the use of nuclear power sources. My delegation supports the general consensus within the Subcommittee that any future revisions of the Principles should be based on scientific and technical developments in this field.

This year the Subcommittee had a very interesting and useful consideration of its agenda item on the Principle that the exploration and use of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries. Working paper A/AC.105/C.2/L.182/Rev.1, presented by a number of delegations, provided a much needed basis for the specific consideration of the various aspects of the question, and we look forward to continuing the discussion of the paper at the next session of the Subcommittee.

We are grateful to all those who organized, and participated in the symposium on space-based communications held during the session of the Scientific and Technical Subcommittee. It was, in our view, a timely and helpful discussion on a subject of particular importance for many countries.

My delegation fully supports the theme chosen up for next year's session, namely, space applications for disaster prevention, warning, mitigation and relief. The acute need for more information and greater cooperation in applying space technology for disaster prevention and warning was painfully obvious for my country earlier this year, when it was struck by subsequent waves of such natural disasters as excessive snowfalls, forest and steppe fires and wind storms.

(Mr. Erdenechuluun, Mongolia)

Mongolia supports the idea of including an item on space debris in the agenda of the Scientific and Technical Subcommittee. With the adoption of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, the Subcommittee may now concentrate on the growing problem of space debris. A thorough scientific and technical analysis of the phenomenon would be instrumental for the possible future work of the Legal Subcommittee on an international legal instrument on the subject.

Mongolia also wishes to associate itself with the proposal, supported by many delegations during this session, to hold a third United Nations Conference on the Exploration and Peaceful Uses of Outer Space. The need for an early conference of this kind has already been extensively elaborated on. I merely wish to point out the overwhelming importance such an event would have in terms of giving new impetus to the space programmes of developing countries.

In conclusion, I should like to turn to the question of the implications that the proposed transfer to Vienna of the Office for Outer Space Affairs might have for the future work of the Committee and its Subcommittees, particularly for the venues of their meetings. In drawing up the report to the General Assembly on this question, it will be highly important to bear in mind the fact that many members and observers of the Committee, mostly developing countries - including my own country - do not have diplomatic missions in Vienna, which would preclude close working contacts with the Office for Outer Space Affairs and prevent participation in the sessions of the Committee and its Subcommittees. We believe it is essential to hold the sessions of the Committee and both its Subcommittees at United Nations Headquarters in New York as much as possible, in order to ensure the broad participation of developing countries.

The CHAIRMAN: This concludes the present stage of our discussion of agenda item 6.

I call on Mr. Rao of India to make his scientific presentation.

Mr. Rao (India) made a presentation to the Committee.

The meeting rose at 11.45 a.m.